



News from . . .

Senator Dianne Feinstein

of California

Statement of Senator Dianne Feinstein On Temporary Guest Worker Proposals February 12, 2004

Washington, DC – The U.S. Senate Judiciary Subcommittee on Immigration today held a hearing evaluating guest worker proposals, including the one announced by President Bush earlier this year.

*While Senator Feinstein opposes the President's proposal primarily because she believes the guest worker program he proposed will be **'a magnet for continued illegal immigration,'** she announced plans to introduce legislation shortly that will seek to amend certain provisions of the Immigration and Nationality Act, specifically those provisions which deal with relief under the cancellation of removal provisions. It is hoped that in doing so it will make our immigration laws more fair and humane.*

The following statement was entered into the record by U.S. Senator Dianne Feinstein (D-Calif.):

“As we evaluate temporary guest worker programs and proposals, I hope we will do so by considering the overall immigration situation in this country. In doing so we will see that legal immigration in 2002 was at nearly 1.1 million individuals. In that same fiscal year, the Immigration and Naturalization Service naturalized 573,708 persons.

Overall nonimmigrant admissions to the United States for fiscal year 2002 were 27.9 million. Nearly half were from four countries – the United Kingdom, Mexico, Japan and Germany.

In fiscal year 2002, 655,949 nonimmigrants were admitted to the United States as temporary workers and trainees. Essentially as guest workers.

The following admission numbers are from the more popular nonimmigrant visa categories for fiscal year 2002.

- H-1B category for specialty occupations – 370,490
- H-2A category for agricultural workers – 15,628
- H-2B category for nonagricultural workers – 86,987
- O-1 category for workers with extraordinary ability – 25,008
- P-1 category for internationally recognized athletes or entertainers – 41,453
- TN category for professional workers under NAFTA – 73,699
- L-1 category for intracompany transferees – 313,699

And these figures do not account for the thousands of spouses and children that join these guest workers in the United States.

I support legal immigration, and I give these numbers only to demonstrate the hundreds of thousands of legal immigrants and foreign guest workers present in the United States. And those who immigrate to this country legally are welcome.

However, legal immigration is being negatively impacted by illegal immigration. And therefore, reform is vital. The President's guest worker proposal will not solve the problem and in fact will only exacerbate the number of undocumented aliens in the United States in the long term.

It has already had a magnet effect in that Border Patrol agents tell my staff that in the San Diego sector they have seen a 38% increase in illegal border crossings this year, which they suspect are linked to the President's immigration proposal, which many in Mexico believe to be an amnesty.

At times, it seems that the immigration system works against those who are trying to legally enter the United States and work and live in this country. It does this through onerous application processes, lengthy processing times and duplication of efforts by federal agencies.

On the other hand, immigration officials are emphasizing the wrong priorities. For instance, the recent story of the Tibetan nun detained for months, even after an immigration judge granted her request for asylum. Now the government's attorney has appealed the decision. Another example is when immigration judges approve cases in which an applicant requests cancellation of removal, only to have the Board of Immigration Appeals overturn these decisions.

Yet, we have tens of thousands of criminal aliens freely walking the streets of our communities because instead of being deported to their home country after serving time, they are simply released back into the communities to commit more crimes.

Our focus should be to assist those who are trying to work within the system, while at the same time keeping those who seek to do us harm, out.

From the time the President proposed his immigration reform proposal, the main component of which is a guest worker program, I have voiced my opposition to such a program. Primarily because I believe it will be a magnet for continued illegal immigration.

I also believe the President's guest worker program will replicate a Bracero type reaction where people would come into this country, bring their families and never return. And I can't blame them for that.

But for my state of California, with the highest number of legal immigrants and undocumented aliens in the country, the President's proposal and any guest worker program of this type would place an unacceptably high burden on my state's economy, health care, educational and criminal systems, as well as, strain other social services and infrastructures.

The federal government has already fallen short of its immigration obligations to the states by not adequately funding SCAAP, the State Criminal Alien Assistance Program. This program, which would help reimburse states for costs they incur for incarcerating undocumented criminal aliens is critical.

The State of California Department of Corrections has 161,785 inmates as of December 31, 2003. Of that number, 18,174 inmates have an Immigration and Customs Enforcement 'hold' on them given their status as non-citizens, and 3,959 more have a 'hold' placed on them by Immigration and Customs Enforcement because they are potentially non-citizens. That is nearly 15% of California's Department of Correction's population.

The cost of housing an inmate is \$30,929 per year. It costs the State of California \$682 million dollars per year to house non-citizen inmates. These are inmates, some of which have committed heinous crimes, such as murder and sex crimes.

Another example is health care in the United States. The President's fiscal year 2005 budget allocates \$250 million for federal reimbursement to states for emergency health services for undocumented aliens.

These strains on our health care systems, schools, prisons and social services need to be drastically reduced. If we are serious about immigration reform we must also strictly enforce employer sanctions for those employers who demonstrate a disregard for our immigration laws by continuing to hire undocumented workers. We must also not provide incentives for the hiring of undocumented workers. At present I believe we have strong employer sanctions laws on the books, but are demonstrating an inability to enforce those laws.

I hope that in this hearing today we will begin to address how to realistically proceed in light of the fact that we have an estimated 8 to 12 million undocumented aliens in the United States.

I will continue to oppose the President's immigration reform proposal, specifically the guest worker component and the lack of an earned legalization component, because I do not believe that it is realistic for several reasons.

First, adding to the number of aliens in the United States through the creation of another program that will allow guest workers in any industry to enter the US is not the solution.

We already have multiple non-immigrant visa categories in which guest workers can enter which are more specifically tailored to address American employer's needs. We need to review these programs first before adding a new program.

Second, I am concerned that the President's program will drive down wages and reduce labor protections for American workers because his program will allow any type of worker, regardless of the industry or proven need.

Third, I am concerned that in the long term the President's proposal will add to the number of aliens illegally present in the US because it is unrealistic that after a guest worker enters the US legally for at least three years, with his or her family, they will return to their home country.

Already the Border Patrol is reporting increased numbers of aliens seeking to enter the United States because they have heard there is some type of 'amnesty' being offered by the President. I read recently in the Los Angeles Times that since the President's immigration proposal, Border Patrol agents are seeing an increase in those seeking to enter the country illegally. I also read in the San Diego Times that since the President's immigration proposal was announced, more

than half the people accused of using fraudulent documents to illegally enter through California's San Ysidro port of entry were trying to enter the country due to the President's proposed 'amnesty' as they called it.

Fourth, I do not believe the President's proposal will bring undocumented workers out of the shadows because his program offers no path to permanent residence. Without this what incentive do individuals have to turn themselves in to immigration authorities?

While I do not support the President's guest worker proposal, I do recognize the importance of his raising the issue. However it is important to note that in the Congress now we have several immigration reform bills pending. I would like to know from the Administration officials testifying today, just how serious the President is when he speaks of immigration reform if he did not consider these legislative efforts or is not willing to support them.

Fifth, I believe that immigration reform should be addressed piece by piece and not in one sweeping bill. We should learn from bills such as the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that sometimes there can be very harsh consequences to sweeping legislative reforms.

There is so much to correct with our current immigration system that I do not believe it can all be addressed in one bill.

Therefore we must prioritize the reforms and in my opinion one of the most important is the issue of undocumented aliens, especially agricultural workers, in the United States and the need for guest worker programs.

I believe the most important need at this time is legalizing the immigration status of undocumented aliens who have been present in the United States for over ten years, have paid taxes, have no criminal record, have attempted to legalize their immigration status, have not benefited from federal and state public benefits and are productive and contributing members of our society.

Whether you believe it is right or wrong to legalize their status is beside the point now. The fact remains that they are here and our immigration policy either does not have the will or perhaps the ability to remove all of them from this country.

I will be introducing legislation shortly which I believe will address these individuals and treat them in a fair and equitable manner so that we can begin to account for those individuals who live in the shadows of society. This legislation will ameliorate some of the harsher provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 as they relate to cancellation of removal for nonpermanent residents."

###